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**State/Territory Name: Wyoming** 

State Plan Amendment (SPA) #: 18-0002

This file contains the following documents in the order listed:

1) Approval Letter

- 2) 179
- 3) Approved SPA Pages

TN: WY-18-0002 Approval Date: 07/17/2018 Effective Date: 07/01/2018

DEPARTMENT OF HEALTH & HUMAN SERVICES Centers for Medicare & Medicaid Services Denver Regional Office 1961 Stout Street, Room 08-148 Denver, CO 80294



## **REGION VIII - DENVER**

July 17, 2018

Teri Green, State Medicaid Agent Office of Health Care Financing Wyoming Department of Health 6101 Yellowstone Road, Suite 210 Cheyenne, WY 82009

Dear Ms. Green:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 18-0002. This Recovery Audit Contractor (RAC) SPA modifies Section 4.5 to waive certain requirements of Section 1902(a)(42) of the Social Security Act. This SPA exempts the State from the requirement for a full-time medical director, with an increased look back period and an increased contingency fee percentage to facilitate the State's attempt to procure a RAC contractor. Please inform us if a bid is received, and a formal contract is executed.

Please be informed that this State Plan Amendment was approved today with an effective date of July 1, 2018. We are enclosing the CMS-179 and the amended plan page(s).

If you have any questions concerning this amendment, please contact Barbara Prehmus at (303) 844-7472.

Sincerely,

Mary Marchioni Acting Associate Regional Administrator

Division for Medicaid & Children's Health Operations

cc: Thomas Forslund, Director Andrew Chapin Chris Bass

TO ANCIMITE AT AND NOTICE OF ADDROVAT OF		1
TRANSMITTAL AND NOTICE OF APPROVAL OF	1. TRANSMITTAL NUMBER:	2. STATE
STATE PLAN MATERIAL	WY18-0002	WYOMING
	3. PROGRAM IDENTIFICATION: TI	TLE XIX OF THE
FOR: HEALTH CARE FINANCING ADMINISTRATION	SOCIAL SECURITY ACT (MEDIC	
	Social Second Free (MEDIC	, HD)
TO: REGIONAL ADMINISTRATOR	4. PROPOSED EFFECTIVE DATE	
HEALTH CARE FINANCING ADMINISTRATION	07/01/2018	
DEPARTMENT OF HEALTH AND HUMAN SERVICES		
5. TYPE OF PLAN MATERIAL (Check One):		
3. TITE OF TEAN MATERIAL (Check One).		
☐ NEW STATE PLAN ☐ AMENDMENT TO BE O	CONSIDERED AS NEW PLAN	
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AME		n amendment)
6. FEDERAL STATUTE/REGULATION CITATION:	7. FEDERAL BUDGET IMPACT:	
42 CFR 455.516	a. FFY 2018	\$0.00
	b. FFY 2019	\$0.00
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	9. PAGE NUMBER OF THE SUPERS	SEDED PLAN SECTION
	OR ATTACHMENT (If Applicable,	):
Section 4.5b page 36b, and 36c	Section 4.5b page 36b, and 36c	
10. SUBJECT OF AMENDMENT: Wyoming is requesting the fo	llowing State Plan Amendments for	or Recovery Audit
Contractor exceptions: Requirement to maintain 1.0 FTE Me		
lookback period (42 CFR 455.508 (f)), and Increase of the co	ontingency fee beyond the nighest	paid Medicare RAC
(42 CFR 455.510 (b)(5)).		
11. GOVERNOR'S REVIEW (Check One):		
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State	WYOMING	
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## **PROPOSED SECTION 4 - GENERAL PROGRAM ADMINISTRATION**

## 4.5 Medicaid Recovery Audit Contractor Program

<u>Citation</u>	X The State will established a program under which it will contract with one or more recovery audit contractors (RACs) for the purpose of
Section 1902(a)(42)(B)(i)	identifying underpayments and overpayments of Medicaid claims under the State plan and under any waiver of the State plan.
of the Social Security Act	
	X The State is seeking an exception to: 42 CFR 455.508 (b), 42 CFR 455.508 (f), and 42 CFR 455.510 (b)(5):  Due to challenges in the arena of Recovery Audit Contractors, Wyoming requests the following exceptions:
Section 1902(a)(42)(B)(ii)(I) of the Act	Wyoming requests an exception to the Medical Director requirements listed in 42 CFR 455.508 (b). Specifically, Wyoming is requesting the authority to require the selected contractor to utilize no less than 0.1 FTE of Medical Director oversight during the contract period. Approval for this exception will provide financial incentive and attract potential RAC bidders.
	Wyoming requests that it be granted the authority to extend the maximum lookback period of three (3) years defined in 42 CFR 455.508 (f), to the State defined lookback period of not more than six (6) years. Wyoming requests an exception to 42 CFR 455.510 (5)(b) and requests that it be granted approval for the utilization of a contingency fee greater than that of the highest paid Medicare RAC. As noted in Federal Registrar document number 77 FR 11127, Medicare/Medicaid RAC contingency fees were increased on February 24, 2012 to a contingency fee of 17.5 percent for overpayments recovered from Durable Medicaid Equipment claims. Wyoming requests that it be granted approval to utilize a contingency fee up to, but not to exceed 17.5 percent for all identified overpayments/underpayments for all claim types reviewed during the contract period.
	The State/Medicaid agency has contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act. All contracts meet the requirements of the statute. RACs are consistent with the statute.
	Place a check mark to provide assurance of the following:  X The State will make payments to the RAC(s) only from amounts recovered.
	X The State will make payments to the RAC(s) on a contingent Basis for collecting overpayments.

TN No. \_18-0002\_\_\_\_\_ Supersedes TN No. \_\_\_\_17-0003\_\_\_\_\_\_

Approval Date: 7/17/18 Effective Date: 7/1/18

Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act	The following payment methodology shall be used to determine State payments to Medicaid RACs for identification and recovery of overpayments (e.g., the percentage of the contingency fee):  The State attests that the contingency fee rate paid to the Medicaid RAC will not exceed the highest rate paid to Medicare RACs, as published in the Federal Register.
Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act	The State attests that the contingency fee rate paid to the Medicaid RAC will exceed the highest rate paid to Medicare RACs, as published in the Federal Register. The State will only submit for FFP up to the amount equivalent to that published rate.  X The contingency fee rate paid to the Medicaid RAC that will exceed the highest rate paid to Medicare RACs, as published in the Federal Register. The State will submit a justification for that rate and will submit for FFP for the full amount of the contingency fee.
Section 1902 (a)(42)(B)(ii)(III) of the Act	X The following payment methodology shall be used to determine State payments to Medicaid RACs for the identification of underpayments (e.g., amount of flat fee, the percentage of the contingency fee):
Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act	X The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).
Section 1902(a)(42)(B)(ii)(IV(bb) of the Act	<ul> <li>X The State assures that the amounts expended by the State to carry out the program will be amounts expended as necessary for the proper and efficient administration of the State plan or a waiver of the plan.</li> <li>X The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.</li> </ul>
Section 1902 (a)(42)(B)(ii)(IV)(cc) Of the Act	X Efforts of the Medicaid RAC(s) will be coordinated with other contractors or entities performing audits of entities receiving payments under the State plan or waiver in the State, and/or State and Federal law enforcement entities and the CMS Medicaid Integrity Program.

Approval Date: 7/17/18 Effective Date: 7/1/18